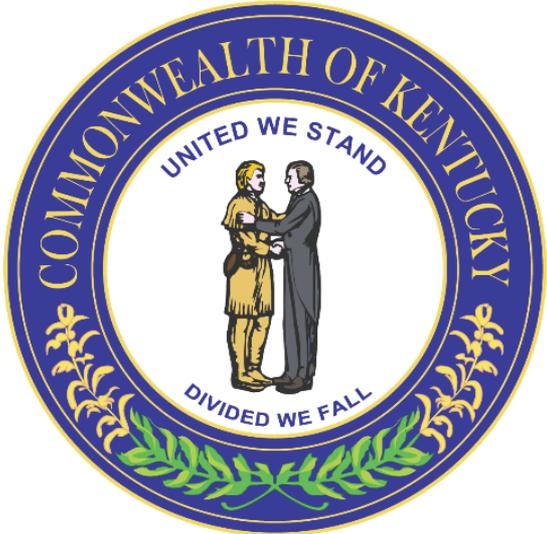




2018 Kentucky Income Tax Changes

Kentucky Department of Revenue





Webinar Agenda

1. House Bill 487
2. IRC and TCJA Conformity
3. Individual Income Tax
4. Corporate Income Tax
5. Tax Credits
6. Property Tax
7. Miscellaneous
8. Acronyms
9. Contact





House Bill 487

Became Law on April 27, 2018

- Most substantial Kentucky tax law changes since 2006
- Sales and excise tax changes not covered here
- Effective Dates:
 - January 1, 2018
 - Flat 5% income tax rate for individuals and corporations
 - Elimination of many individual income tax deductions
 - IRC conformity for income tax updated to December 31, 2017 including the TCJA (Pub. L. 115-97)
 - Single sales factor
 - Market-based sourcing
 - January 1, 2019
 - Unitary combined and elective consolidated group filing





IRC and TCJA Conformity

- IRC conformity date now December 31, 2017
- TCJA provisions adopted with IRC conformity
- Kentucky Adopted from TCJA:
 - Net Operating Loss changes (IRC §172)
 - Net Interest Expense limitation (IRC §163(j))
 - Domestic Production Activity Deduction repeal (IRS §199)
 - Foreign Derived Intangible Income-FDII (IRC §250)
 - Moving Expense Deduction repeal (IRC §132)
 - Moving Expense Reimbursement Exclusion repeal (IRC §217)
 - Alimony Payment Deduction repeal (IRC §215)
 - Alimony Received Inclusion repeal (IRC §61)
- Kentucky Decoupled from TCJA:
 - Full Depreciation Expensing (IRC §168(k))
 - Pass-Through Entity QBI deduction (IRC §199A)





Individual Income Tax

Effective January 1, 2018

- Flat tax rate of 5% for all individuals
- Pension exclusion decreased to \$31,110 from \$41,110
- \$10 personal tax credit for taxpayers and dependents eliminated
- Retained personal tax credits for >age 64, blind, and National Guard
- Adjustments Eliminated:
 - Deduction for health insurance premiums
 - Deduction for long-term care insurance premiums
 - Master Tobacco Settlement Payments
 - Deduction for homeless shelter leasehold interest donation
- STABLE investment income now tax exempt





Individual Income Tax (Continued-1)

- Dollar limit cap on itemized deductions (Pease Limitation) eliminated
- Itemized Deductions Maintained:
 - Home mortgage interest, points, and qualified MIP
 - Charitable contributions
 - Several miscellaneous deductions:
 - Amortizable premium on taxable bonds (IRC §171)
 - Federal estate tax on IRD (IRC § 691)
 - Repayments >\$3,000 under a claim of right (IRC §1341)
 - Unrecovered investment in an annuity (IRC §72)
 - Other activities loss from Schedule K-1 (Form 1065-B), box 2





Individual Income Tax (Continued-2)

- Itemized Deductions Eliminated:
 - Investment interest (IRC §171)
 - Taxes (IRC §164)
 - Casualty/theft and gambling losses (IRC §165)
 - Medical and dental expenses (IRC §213)
 - Moving expenses (IRC §217)
 - 2% AGI miscellaneous deductions (IRC §67)
- Forms Changes:
 - Eliminated Form 740-EZ
 - Simplified Schedules A (itemized) and M (federal modifications)
 - New Schedule ITC for individual tax credits
 - New Schedule INV for inventory tax credit





Corporate Income Tax

Effective January 1, 2018

- Flat tax rate of 5% for all corporations
- Single sales factor apportionment
- Market-Based Sourcing:
 - Receipts are in Kentucky if the market is in Kentucky:
 - Sale, rental, lease, or license of real property in Kentucky
 - Sale, rental, lease, or license of tangible personal property in Kentucky
 - Service delivered or intangible property used in Kentucky (throw-out rule for intangible receipts if not taxable or indeterminable)
 - KAR guidance based on MTC model coming soon





Corporate Income Tax (Continued-1)

- 3-Factor Apportionment Retained:
 - Communication services per KRS 136.602
 - Cable services per KRS 136.602
 - Internet access per 47 USC §51
- Special Apportionment Definitions:
 - Passenger airlines
 - Qualified freight forwarders
- Alternative Apportionment:
 - Taxpayer must prove by clear and convincing evidence that statutory apportionment requirements unfairly represent activity in Kentucky





Corporate Income Tax (Continued-2)

Net Operating Losses

- 50% NOL limitation for mandatory nexus consolidated group filers until December 31, 2018
- 80% NOL limitation on NOL generated on or after January 1, 2018 per IRC §172(a)
- Unlimited unused NOL carryforward per TCJA on NOL generated on or after January 1, 2018
- Kentucky disallows NOL carryback since January 1, 2005
- KAR guidance coming soon





Corporate Income Tax (Continued-3)

Filing Requirements

- Mandatory Nexus Consolidated otherwise Separate Entity still **required until December 31, 2018** for corporations
- Tax years beginning on or after **January 1, 2019** for corporations and PTEs:
 - Unitary combined group; *unless*
 - Same-as-federal consolidated group election; *otherwise*
 - Separate entity filing if not part of a unitary or consolidated group
- e-Filing required if federal gross receipts >\$1,000,000
- Forms Changes:
 - Updated Schedule A for apportionment factor changes
 - New Schedule INV for inventory tax credit
 - Various updates for tax law changes





Tax Credits

- **Inventory Tax Credit:**
 - Ad valorem tax paid on inventory
 - Must be timely paid
 - Phased-in 25% per year from 2018 through 2021
 - Calculator will be posted at <https://revenue.ky.gov/>
- **Film Tax Credit:**
 - Nonrefundable and nontransferable for applications approved after April 27, 2018
 - Annual approval cap of \$100 million for 2018 and after
 - Commercials no longer qualify
- **Credits Eliminated:**
 - Kentucky Environmental Stewardship Act (KESA)
 - Kentucky Economic Opportunity Zone Tax Credit (KEOZ)
 - Incentives for Energy Independence Act (IEIA)
 - Coal Incentive Tax Credit
 - Food Donation Tax Credit
 - Kentucky Housing for Homeless Families





Property Tax

- Pre-written computer software is subject to state and local property tax
- Reminders:
 - Form 62A500 returns are due for all businesses each year on May 15 for property held on January 1
 - Returns must be filed with the Property Valuation Administrator in each county per Form 62A500 instructions
 - Late or amended returns must be filed with the Office of Property Valuation at DOR
 - No *de minimus* value standard
 - All personal property must be reported and depreciated per the instructions





Miscellaneous

- Kentucky Court Appointed Special Advocates (CASA) new refund designation checkoff
- Withholding statement e-filing threshold lowered to 26
- Final federal audit determination due in 180 days
- Assessment and refund denial protests due in 60 days
- Bonds no longer required to appeal a protest ruling
- Contingent fee contracts prohibited for audits, collections, or legal services





Acronyms

- IRC – Internal Revenue Code
- TCJA – Tax Cuts and Jobs Act of 2017
- MIP – Mortgage Insurance Premium
- IRD – Income in Respect of a Decedent
- AGI – Adjusted Gross Income
- MTC – Multistate Tax Commission
- KAR – Kentucky Administrative Regulations <http://www.lrc.ky.gov/kar/titles.htm>
- KRS – Kentucky Revised Statutes <http://www.lrc.ky.gov/statutes/>
- NOL – Net Operating Loss
- PTE – Pass-Through Entity





Contact

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